

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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SHIMSHON WEXLER

Case No.: _____

Plaintiff,

**COMPLAINT FOR VIOLATIONS
OF THE FAIR CREDIT
REPORTING ACT**

v.

JURY TRIAL DEMANDED

LVNV FUNDING, LLC

Defendant.
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INTRODUCTION AND BACKGROUND FACTUAL INFORMATION

1. Plaintiff, Shimshon Wexler, brings this lawsuit against LVNV Funding, LLC (“LVNV”) for violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (“FCRA”).

2. According to LVNV, Chase had charged off plaintiff’s account on July 30, 2010 with a balance of \$22,850.

3. LVNV claims to have bought plaintiff’s defaulted credit card account from Chase Bank when there was a balance of approximately \$22,850 on or about March 10, 2011.

4. Shortly after LVNV claimed that it acquired the account it

began reporting the account to the credit reporting agencies.

5. LVNV did not acquire from Chase the right to charge contractual interest on Plaintiff's account as Chase had demonstrated an intent to waive that right.

6. LVNV cannot acquire the right to charge interest from Chase when Chase waived that right.

7. In violation of the law LVNV began adding interest to Plaintiff's account even though Chase had waived its right to collect interest.

8. Upon information and belief, Plaintiff sent numerous letters (including the letter attached as **Exhibit A**) directly to LVNV, its servicing agent Resurgent Capital and the 3 major credit bureaus seeking to have his credit report fixed but LVNV did not correct its reporting about Plaintiff.

JURISDICTION AND VENUE

9. This Court has jurisdiction under 15 USC § 1681(p) (FCRA).

10. Venue in this District is proper under 28 USC § 1391(b)(1) because LVNV "resides" within this district as defined by USC § 1391(c)(2).

PARTIES

11. Defendant LVNV Funding LLC is a Delaware corporation with

offices in South Carolina. Its registered agent in South Carolina is Corporation Service Company, 1703 Laurel Street, Columbia, SC 29223.

12. LVNV is a “furnisher of information” as defined by the FCRA.

13. Plaintiff is a consumer as defined by the FCRA.

14. Plaintiff resides at 1856 Berkeley Mews NE, Atlanta, GA 30329.

VIOLATIONS ALLEGED

COUNT I – FCRA CLAIM AGAINST LVNV

15. Plaintiff incorporates all of the above paragraphs as though fully stated herein.

16. LVNV violated the Fair Credit Reporting Act, 15 U.S.C. §1681s-2(b), by failing to reasonably investigate Plaintiff’s disputes (including the dispute letter attached as Exhibit A) when Experian, Trans Union and Equifax contacted LVNV in response to plaintiff disputing the credit report and in providing false information as a result.

17. LVNV repeatedly reported and verified that plaintiff’s account had a balance of more than \$22,850.

18. Section 1681s-2(b) provides:

(b) Duties of furnishers of information upon notice of dispute.

(1) In general. After receiving notice pursuant to section 611(a)(2) [15 USC §1681i(a)(2)] of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall

(A) conduct an investigation with respect to the disputed information;

(B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2) [15 USC §1681i(a)(2)];

(C) report the results of the investigation to the consumer reporting agency; and

(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis.

19. LVNV failed to carry out its duties under 1681s-2(b).

20. LVNV's unlawful conduct proximately caused Plaintiff actual damages, including but not limited to: harm to credit reputation; unfavorable credit terms; reduction in credit score; emotional distress and mental anguish; out-of-pocket expenses; and time.

21. LVNV committed such violations willfully, recklessly

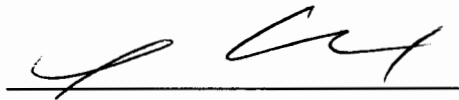
and/or negligently.

22. Plaintiff is entitled to damages pursuant to 15 U.S.C. § 1681n and/or § 1681o.

WHEREFORE, plaintiff requests that the Court enter judgment in his favor and against LVNV for:

- (1) Appropriate actual, punitive and statutory damages;
- (2) Litigation expenses and costs of suit;
- (3) Such other or further relief as the Court deems proper.

Dated: Atlanta, GA
May 4, 2016



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JURY DEMAND

Plaintiff demands trial by jury.



Shimshon Wexler